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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ERIKA SMITH, individually and on behalf
of all those similarly situated,

Plaintiff,

vs.

ALLSTATE FIRE AND CASUALTY
INSURANCE COMPANY, ALLSTATE
INDEMNITY COMPANY, ALLSTATE
INSURANCE COMPANY, ALLSTATE
NORTHBROOK INDEMNITY
COMPANY, ALLSTATE PROPERTY
AND CASUALTY INSURANCE
COMPANY, ALLSTATE VEHICLE AND
PROPERTY INSURANCE COMPANY,
DOES 1 through 10,

Defendants.

Case No.: 2:21-cv-00487- RFB-BNW

AMENDED STIPULATION AND
PROPOSED ORDER EXTENDING
DEADLINE FOR PLAINTIFF TO FILE
AMENDED COMPLAINT

STIPULATION AND PROPOSED ORDER EXTENDING DEADLINE FOR
PLAINTIFF TO FILE AMENDED COMPLAINT

Plaintiff ERIKA SMITH, by and through their counsel of record, Robert T. Eglet, Esq.,

Tracy A. Eglet, Esq., and Danielle C. Miller, Esq. of the law firm EGLET ADAMS and Matthew L. Sharp, Esq. of the law firm MATTHEW L. SHARP, LTD., and Defendants ALLSTATE FIRE AND CASUALTY INSURANCE COMPANY, ALLSTATE INDEMNITY COMPANY, ALLSTATE INSURANCE COMPANY, ALLSTATE NORTHBROOK INDEMNITY COMPANY, ALLSTATE PROPERTY AND CASUALTY INSURANCE COMPANY, and ALLSTATE VEHICLE AND PROPERTY INSURANCE COMPANY (collectively, “Allstate”), by and through their counsel of record, Elijah L. Milne, Esq. and Timothy O. Hemming, Esq. of the law firm DENTONS DURHAM JONES PINEGAR P.C., for good cause shown, hereby stipulate and agree as follows:

1. Plaintiff filed her Complaint in the Eighth Judicial District Court for Clark County, Nevada, Case No. A-21-829912-B. Allstate removed this action to this Court on April 8, 2021.

2. Allstate filed their Motion to Dismiss on May 14, 2021 [ECF No. 36].

3. Plaintiff filed her Response to Allstate’s Motion on June 14, 2021 [ECF No. 39].

4. Allstate filed a Reply in support of the Motion on July 9, 2021 [ECF No. 40].

5. That on February 9, 2021, the Honorable Richard F. Boulware, II heard Allstate’s Motion to Dismiss and dismissed with prejudice all claims except the breach of implied covenant of good faith and fair dealing claim, tortious bad faith claim, and the Deceptive Trade Practices Act claim, which were dismissed without prejudice. The Court granted Plaintiff leave to file an Amended Complaint with respect to Plaintiff’s claims that were dismissed without prejudice on or before Friday, March 11, 2022 [ECF No. 45].

6. Because the claims that were dismissed without prejudice must be pled with particularity, Plaintiff needs additional time to review Plaintiff’s e-mail correspondence, records, and bank statements going back at least two (2) years, to the beginning of the COVID-19 pandemic. Given how much time has passed and given the burden of pleading Plaintiff’s claims with particularity, Plaintiff needs additional time to thoroughly review her records to obtain this information. Plaintiff will also have to request some of this information from third parties, which may take additional time.

7. Thus, the parties hereby stipulate that Plaintiff shall have an additional sixty (60)

1 days to file an Amended Complaint.

2 8. That Plaintiff's Amended Complaint shall be due on or before May 11, 2022.

3 9. That Allstate shall have an extension of thirty (30) days to file a Motion to Dismiss
4 Plaintiff's Amended Complaint.

5 10. The parties agree that discovery remains stayed pending Plaintiff filing an
6 Amended Complaint and resolution of Defendant's anticipated Motion to Dismiss Plaintiff's
7 Amended Complaint.

8 11. In this District, requests to stay discovery may be granted when: (1) the pending
9 motion is potentially dispositive; (2) the potentially dispositive motion can be decided without
10 additional discovery; and (3) the Court has taken a "preliminary peek" at the merits of the
11 potentially dispositive motion. *Tradebay, LLC v. eBay, Inc.*, 278 F.R.D. 597, 602 (D. Nev. 2011).
12 In doing so, the court must consider whether the pending motion is potentially dispositive of the
13 entire case, and whether that motion can be decided without additional discovery. *See Federal*
14 *Housing Finance Agency v. GR Investments LLC*, Case No. 2:17-cv-03005-JAD-EJY, 2020 WL
15 2798011 at *3 (D. Nev. May 29, 2020) (granting motion to stay discovery pending resolution of
16 potentially dispositive motion for summary judgment); *see also Mintun v. Experian Information*
17 *Solutions, Inc.*, 2:19-cv-00033-JAD-NJK, 2019 WL 2130134 at **1-2 (D. Nev. May 15, 2019)
18 (granting motion to stay discovery pending resolution of potentially dispositive motion to
19 dismiss).

20 12. The Parties agree that Allstate's Motion to Dismiss raises potentially dispositive
21 legal and jurisdictional defenses to Plaintiff's claims concerning Allstate's auto insurance rates
22 during the COVID pandemic.

23 13. Pending resolution of Allstate's Motion to Dismiss, the Parties agree and stipulate
24 to a stay of discovery including, but not limited to, any discovery obligations set forth in Fed. R.
25 Civ. P. 26 and LR 26-1. The Parties are in agreement that a stay of discovery is warranted at this
26 time. Moreover, discovery is not required to resolve Allstate's anticipated Motion.

27 14. If the Court denies Allstate's Motion to Dismiss, in whole or in part, the Parties
28 agree to submit a Discovery Plan and Scheduling Order within thirty (30) days after entry of the

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Court's Order on the Motion.

15. The parties respectfully suggest that good cause exists to enter the stipulated stay of discovery to preserve judicial and party resources and based on application of the factors set forth in paragraph 11, above.

16. The Parties represent that this stipulation is sought in good faith, is not interposed for delay, and is not filed for an improper purpose.

DATED this 10th day of March, 2022.

DATED this 10th day of March, 2022.

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**DENTONS DURHAM JONES PINEGAR
P.C.**

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ORDER

Based upon the parties' stipulation and GOOD CAUSE APPEARING THEREFOR, IT IS SO ORDERED:

IT IS SO ORDERED.


UNITED STATES MAGISTRATE JUDGE

DATED: March 11, 2022